

**SECONDHAND DEALERS,
PAWNBROKERS AND AUCTION HOUSES**



Scottsdale Revised Code

NOTICE TO TAXPAYERS

This booklet incorporates sections of the City Code of the City of Scottsdale as it relates to Secondhand Dealers.

It is our hope that this booklet will assist you in understanding the licensing law.

For any additional information or clarification, please call (480) 312-2400.

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CHAPTER 16
LICENSES, TAXATION AND MISCELLANEOUS BUSINESS
REGULATIONS

ARTICLE IX. SECONDHAND DEALERS*, PAWNBROKERS
AND AUCTION HOUSES

DIVISION 1. GENERALLY

Sec. 16-311. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Auction house means any person operating a place of business where property is received from other persons or businesses, when such property is to be sold to third parties, by auction, either publicly or privately, whether for cash, property or other consideration.

Auctioneer means a person who runs a public sale where tangible property is sold to the highest bidder.

Control means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, in any way. Control is presumed to exist:

- (1) In a privately-held corporation, if a person has the direct or indirect ownership of or power to vote ten percent (10%) or more of the outstanding voting securities of the applicant, licensee or controlling person, or to control in any manner the election of one or more of the directors of the applicant, licensee or controlling person. To determine the percentage of voting securities owned, controlled or held by a person, there shall be added the voting securities of any other person controlled by (I) that person, or (II) by an officer, partner, employee or representative of that person or (III) by a spouse, parent or child of that person.

- (2) In a partnership, if the general partner or a limited partner holds ten percent (10%) or more of the voting rights of the partnership.
- (3) If a creditor of the applicant, licensee or controlling person holds a beneficial interest in ten percent (10%) or more of the liabilities of the applicant, licensee or controlling person.
- (4) In an on-site manager of a business required to be licensed pursuant to this article, who directs the daily operation of the business, whether or not the on-site manager has any ownership interest in the business.

Controlling Person means a person directly or indirectly possessing control of an applicant, licensee or business, and includes an agent and an on-site manager.

Director means the Customer Service Director of the City of Scottsdale, or the Director's designee.

General Manager means the General Manager of Financial Services of the City of Scottsdale, or the General Manager's designee.

Junk dealer means any person engaged in the business of purchasing, obtaining or accepting on consignment materials from persons other than the original manufacturer or authorized distributor, when the materials are purchased or obtained for sale, credit, trade or exchange and the material obtained or purchased is to be put to a use inconsistent with its original purpose. "Materials", as used herein, includes, but is not limited to, vehicle parts or accessories, machinery, iron, copper, brass, lead, zinc, tin, steel, aluminum or other metals, including gold, silver and platinum, and metal alloys, metallic cables, wire, batteries, rope, rubber and other like materials. "Put to a use inconsistent with its original purpose" means to dismantle, scrap, melt down, press, transform or otherwise disfigure a material for resale in the altered form, or for use by the purchaser in the altered form.

**State law references - State regulation of junkyards, A.R.S. s. 28-2131 et seq.; scrap metal dealers, A.R.S. s. 44-1641 et seq.; jewelry auctions, A.R.S. s. 44-1671 et seq.*

Licensee means a person who has been issued a license pursuant to the provisions of this article.

Law Enforcement Agency means Scottsdale Police Department, the County Sheriff, or any other state or federal law enforcement agency exercising their lawful jurisdiction within the city.

Law Enforcement Officer means an officer or agent of a law enforcement agency.

Pawnbroker means a person engaged in the business of advancing money on the security of pledged goods, or who is engaged in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed or variable price within a fixed or variable period of time. A person is engaged in the business of a pawnbroker whether such business is the principle or sole business engaged in, managed or conducted, or whether it is merely incidental to it, or conducted in conjunction with a branch or department of some other business or businesses.

Person means any individual, proprietor, employee, agent, company, organization, association, joint venture, partnership, business trust or corporation.

Scrap Metal Dealer means each person or business entity including all employees of the person or business entity, except automotive recyclers as defined and licensed pursuant to Title 28, Chapter 10 of the Arizona Revised Statutes, whose primary business is the dismantling, selling or disposing of parts or accessories of motor vehicles engaged in the business of purchasing, trading, bartering or otherwise receiving secondhand or castoff material of any kind, except used beverage containers, which is commonly known as scrap metal. "Scrap Metal" includes insulated and uninsulated metallic cables.

Secondhand dealer means any person engaged in conducting, managing, or carrying on the business of buying, selling, trading or exchanging, or accepting for sale on consignment, or otherwise dealing in secondhand goods, wares, merchandise or articles, including, but not limited to antiques, jewelry, precious metals, gold, silver, platinum, precious and semi-

precious stones, whether or not the business is the principle or sole business conducted or is rather a part thereof or incidental to it. "Secondhand dealer" shall not include dealers, or auctioneers of property, the transfer of title to which is required by the laws of the state to be evidenced by a written instrument recorded in a department or office of the state or county government.

Secondhand, Auction House or Pawn Employee means any person employed by, or who has contracted to work for, a secondhand dealer, auction house, pawnbroker, junk dealer or scrap metals dealer, whose job duties at any time involve handling of the kinds of materials, items or articles that characterize the business, as defined in this section.

Sec. 16-312. Exemption.

The provisions of this article do not apply to:

- (1) Persons who engage solely in the selling of secondhand goods, wares, merchandise or articles.
- (2) Buying, selling, trading, exchanging, consigning, or otherwise dealing in recycling metal cans, paper, cardboard or glass.
- (3) Buying, selling, trading, exchanging, consigning, or otherwise dealing in used books, tires (excluding rims), clothing, coins not set in a bezel, postage stamps, trading cards, comic books, furniture (other than appliances) and works of art placed on consignment by the original artist. Sports memorabilia valued at fifty dollars (\$50), or less, shall also be exempt.
- (4) Organizations that have been determined to be exempt from taxation, pursuant to Section 501(C) of the Internal Revenue Code, by the Internal Revenue Service, including churches and religious organizations.
- (5) Investment or securities brokerage houses or financial institutions as defined in Arizona Revised Statutes Section 44-1601, paragraph 1, items (a), (b) and (c).

Sec. 16-313. Purpose and effect.

This article is enacted for regulatory purposes. Persons required to obtain a license for transacting and carrying on any business listed in this article shall not be relieved from the payment of any tax levied for revenue purposes nor any fee required under any other ordinance of the city and shall remain subject to the provisions of such other ordinances.

Sec. 16-314. Administration.

(a) The administration of this article, including the duty of prescribing forms, is vested in the General Manager, except as otherwise specifically provided. The chief of police shall render such assistance in the application and enforcement of the article as may be required by the General Manager or the Director, as appropriate.

(b) License applications made pursuant to this article shall be submitted to the Director, who shall have the authority to issue, deny, or revoke licenses in accordance with the provisions of this article, or as may be provided elsewhere in this chapter.

DIVISION 2. LICENSE

Sec. 16-331. Required; term.

(a) It shall be unlawful for any person to act within the city as an auction house, auctioneer, junk dealer, scrap metal dealer, pawnbroker or secondhand dealer without first obtaining a license to do so from the Customer Service Director.

(b) A license required by this section is in addition to any other licenses or permits required to engage in business by the city, county, state and federal governments, and shall be nontransferable, either person-to-person, or location-to-location.

Sec. 16-332. Application; Auction House, Auctioneer, or Junk Dealer, Pawnbroker, Scrap Metal Dealer, Secondhand Dealer License.

(a) Applications for the license required by this article are subject to the terms and conditions of Article I of this chapter.

(b) An application for a license required by this article for an auction house, auctioneer, junk dealer, pawnbroker, scrap metal dealer or secondhand dealer license shall be made thirty (30) days prior to the event or start of business upon forms provided and prescribed by the Director.

(c) Prior to the issuance of a license pursuant to this section, the applicant will meet personally with a designated representative of the Police Department to:

- (1) Review requirements relating to reports of purchases pursuant to this article and
- (2) Be photographed for identification purposes. The provisions of this subsection (d) shall be inapplicable to renewals of licenses pursuant to this article.

Sec. 16-333. License fees; Duration.

(a) There are imposed upon the person specified in this article fees in the amounts prescribed below, which must be paid prior to the issuance of any license and are nonrefundable;

- (1) Secondhand dealers, pawnbrokers, junk dealers, scrap metal dealers, and auction houses: one hundred dollars (\$100.00) annually.
- (2) Auctioneer: twenty-five dollars (\$25.00) per auction.
- (3) Each applicant or person requiring a records check and fingerprinting shall pay a fee for each records check and fingerprinting required by this article. The amount of the fee shall be the actual cost of obtaining the criminal history information from the Arizona Department of Public Safety.
- (4) Duplicate license fee, ten dollars (\$10.00).

(b) Recovery of license fees for prior periods of unlicensed business shall be the current license fee, plus the fees applicable for unlicensed periods, up to a maximum of four (4) previous years.

(c) All licenses issued pursuant to this article shall be for a period of one (1) year and shall be renewable under the terms and conditions of this article.

Sec. 16-334. Fingerprints; background investigation; time for issuance.

(a) All applicants for licenses, including all controlling persons, and secondhand, auction house or pawn employee, under this article, shall personally appear at the Tax and License office of the city, as directed by the Director, for the purpose of being fingerprinted. The police department shall conduct a background investigation of the applicant and shall advise the director of the findings of such investigation within the period allowed to the director to issue or deny the license.

(b) The Director shall have sixty (60) days from the date of the completion of all application materials and requirements to either issue or deny any license subject to this article. The issuance and denial of licenses pursuant to this article shall be as provided in Article 1 of this chapter. The issuance of any license shall in no way be construed as a waiver of any right of denial or revocation that the city may have at the time of issuance.

Sec. 16-334.1. Non-acceptance and denial of application.

(a) The Director shall not accept an application for a license if:

- (1) The application is incomplete; or
- (2) The application shows that the applicant or any controlling person has been convicted of a criminal action that would be grounds for denial of the application; or
- (3) The Director knows that the applicant or controlling person has been convicted of a criminal action that would be grounds for denial of the application.

(b) The Director shall deny a license if:

- (1) All requirements for the application have not been completed; or

- (2) The applicant is a corporation which is not qualified to transact business in Arizona; or
- (3) The applicant is delinquent in payment to the city of any taxes, fees, fines, or penalties imposed upon the applicant, or arising out of any other business activity owned or operated by the applicant and licensed by the city; or
- (4) The applicant is in violation of any applicable provisions of the ordinances and regulations of the city, including Article 1 of this chapter, relating to the business or occupation to be conducted under the license; or
- (5) The applicant or any controlling person has been convicted of a criminal offense that would be grounds for denial of the application, as provided in Article 1 of this chapter.

Sec. 16-334.2. Renewal of License.

(a) Applications for license renewal shall be completed on forms designated by the Director and shall be submitted to the Director with the applicable renewal fee.

(b) To assure continued operation of the licensee's business without an unlawful lapse in the license, a licensee applying for license renewal shall file a renewal application with the Director no later than sixty (60) days before the expiration of the license currently in effect.

Sec. 16-335. Duplicate licenses.

A duplicate license may be issued by the Director to replace any license issued hereunder, which has been lost or destroyed. The issuance of a duplicate license shall be conditioned upon the licensee filing a statement with the Director, indicating the circumstances necessitating the duplicate license, and paying such duplicate license fee as is required by this article.

Sec. 16-336. Posting and display of license.

(a) Any licensee under this article transacting and carrying on business at a fixed place of business, shall keep the license posted in a conspicuous place upon the premises where such business is conducted.

(b) Any licensee transacting and carrying on business but not at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on the business for which it was issued. The licensee shall display the license upon request to do so by any law enforcement officer or authorized city employee.

Sec. 16-336.1. Information Update.

All applicants and persons holding licenses issued pursuant to this article shall give written notice to the Director of any material changes in information submitted in connection with an application or application for renewal of a license (e.g. legal name, residence address, mailing address, criminal history as described as grounds for denial in Section 16-4(d)(1) of Article 1 of this chapter. Material changes under this section also include any changes in the employees employed by a licensee. This information shall be provided to the Director by licensee or the affected person, as applicable, within ten (10) days of any such change.

Sec. 16-337. Remedies cumulative.

All remedies prescribed by this article shall be cumulative and supplemental and the use of one (1) or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article.

DIVISION 3. PROCEDURES AND OFFENSES

Sec. 16-338. Reports of purchases, trades, etc.; Exception; Penalty.

(a) Every person engaged in the business of auction house, junk dealer, scrap metal dealer, pawnbroker or secondhand dealer shall make out at the time of the transaction and deliver to the police department a true, complete and legible report of all

reportable transactions. Reportable transactions as used in this section means the receipt of goods and articles by a licensee, whether received on deposit, in pawn, pledge or consignment, trade or exchange, or by purchase. The report shall be made on forms provided by the police department. Completed reports shall be delivered to the police department, or postmarked within forty-eight (48) hours after receipt of the property being reported.

(b) Notwithstanding the provisions of subsection (a), above, the reporting requirements of this section shall be inapplicable to transactions:

- (1) Involving articles exempted under Section 16-312 of this article, or;
- (2) Solely between merchants licensed under this article or between merchants, who would be required by this article to secure licenses, if their establishment were located in the city.

(c) A violation of this section shall be punishable as Class three (3) misdemeanors are punishable under state law.

Sec. 16-338.1. Contents of Reports; Filing

(a) Each report required to be filed pursuant to Section 16-338, above, shall contain the following information for each item received. All information shall be legible and either handprinted or typewritten, excepting signatures. The reporting party shall complete all entries on the reporting form, excepting the signature of the person from whom the property is being received, and shall enter "none" or "n/a" (not applicable) as appropriate.

- (1) A complete description of the property, including brand name, color and serial number, if any. The quantity of like-type items shall be shown if applicable.
- (2) The date and time when the property was received.
- (3) The signature of the person from whom the property was received.

- (4) The name, address, and date of birth of the person transferring the property, and the name of the business represented by that person in the transaction, if any. The reporting party shall require the person from whom he is purchasing, taking in on pawn, excepting for consignment or trading, or otherwise receiving the property be identified by displaying a valid motor vehicle operator's license, a valid state non-operating identification license, a valid Armed Forces identification card or a valid passport with photograph, or any current, valid federal or state issued identification card with photograph. The type of identification so used and any and all identifying numbers thereon shall be recorded by the reporting party on the report.
- (5) The initials of the licensee receiving the property, or the initials of the employee receiving the property on the licensee's behalf, as well as the business code issued by the Maricopa County pawn system for pawn shops and secondhand stores.
- (6) The physical description of the person from whom the property was received, including the following: height, sex, weight, race, color of hair and color of eyes.
- (7) As applicable, depending on the nature of the transaction, the amount paid for each item; the amount of money lent or given on the pawn; the amount of money for which the item was consigned; the value of the trade. The amount or value reported shall include any and all fees related to the transaction.
- (8) In reportable transactions of a pawnbroker only: The right thumbprint of the person pawning, selling, placing on consignment or trading the property. The right thumbprint shall be placed on the original (white) and yellow copy of the transaction report. In the absence of the right thumb, the print of the left thumb should be used, with appropriate box checked as to which thumb has been printed. This transaction report is to be mailed or delivered within 48 hours of the day that

an article is received in a reportable transaction to the Scottsdale Police Department.

(b) A transaction report on a pawned article is valid for a period not more than ninety (90) days. A new transaction report must be filled in and sent to the pawn detail of the police department not later than the 91st day following the initial report, or report in compliance with the subsection (b)(9). The new transaction report shall be completed in the same manner as the initial report required by this subsection b, indicating in the upper right-hand corner of the report, in the appropriate box, that the report is of a new loan on a previously pawned item(s). A transaction report completed in compliance with this subsection (b)(9) is not required to comply with subsection (a)(8), above.

(c) Unless otherwise directed by the police department, in writing, the licensee will deliver the original and yellow copy of the transaction report to the police department and the licensee will retain the pink copy of transaction report in their place of business. Copies of these transaction reports shall be retained for twenty-four (24) months in the place of business where the transaction took place by those business required to report to the police department.

Sec. 16-339. Holding period for property acquired; exceptions.

(a) It is unlawful for any auction house, junk dealer, pawnbroker or secondhand dealer, or scrap metal dealer to sell, transfer, exchange or otherwise dispose of any goods or articles required to be reported to the police department under the provisions of this article, except as provided herein.

(b) Property reported as a result of transactions described in this section shall not be sold, transferred, exchanged or otherwise disposed of until the property has been in the custody of the reporting licensee and in Maricopa County for a period of at least ten (10) days and at least ten (10) days have passed since the property was reported to the police department, pursuant to Section 16-338, above ("holding period"). Notwithstanding the foregoing, the holding period for articles received in reportable transactions of a pawnbroker shall be twenty (20) days.

(c) During the period that property is held pursuant to this section, the licensee shall preserve it in the condition in which it was received and shall not dismantle, scrap, melt down, press, transform or otherwise disfigure it until it is held for the period required by this section. This section shall not apply to the redemption of pawned articles or to non-fabricated precious or semi-precious metals, if at the time of the transaction the metal is in ingot or bullion form. During the twenty (20) day holding period for pawn transactions and ten (10) day holding period for secondhand and auction house transactions, all items that have been purchased, traded or taken in on consignment or pawned will remain on the premises of the place of business where the items were taken in by purchase, trade, or on consignment, or pawned.

Sec. 16-340. Providing false information.

It shall be unlawful for any individual to provide false information on reports required by any section of this article or to provide false information on any license application.

Sec. 16-340.1. Accepting item with altered identification number.

It shall be unlawful for a licensee to accept an item in a reportable transaction, as provided in Section 16-338, above, if one or more serial or identification numbers on the item has been removed, altered or otherwise been made illegible by any means.

Sec. 16-341. Transactions with minors.

(a) No licensee or merchant, regardless of whether he is required to be licensed under the provisions of this article, shall buy, accept on consignment, trade or otherwise accept merchandise from any person under the age of eighteen (18) years, unless the minor first produces a notarized letter, signed by the minor's parent or guardian, granting permission to the minor to transfer an interest in the property. A pawnbroker shall not enter into a pawn transaction or good faith outright purchase of tangible personal property with a person who is less than eighteen (18) years of age.

(b) It shall not be a defense to an alleged violation of subsection (a) that the merchant reasonably believed the minor to be eighteen (18) years or older unless the minor produced a state driver's license, or other identification as specified in Section 16-338, paragraph (a)(4), and that identification purported to identify the minor as a person eighteen (18) years of age or older.

Sec. 16-342. Property connected with a crime.

(a) No junk dealer, pawnbroker, scrap metal dealer, auction house or secondhand dealer shall dispose of any property which is the subject of this article when advised by a representative of a law enforcement agency that there are reasonable grounds to believe that the property is the fruit or evidence of a crime, or was used as a weapon or otherwise in the perpetration of a crime. A licensee shall surrender such property to a representative of a law enforcement agency on demand.

(b) A licensee surrendering property pursuant to subsection (a), above, shall be given a seized property receipt for the property when seized by the law enforcement agency, or the item may be retained within the place of business on an "investigative hold" ("hold"), until such time as the property is deemed by the agency to be "cleared", or ready to be seized by the agency. The hold must be released by the same law enforcement agency that placed the hold. If the property is a pawn, pledge or item held for resale upon which interest is accruing, the accrual shall cease upon notification that it is property subject to the provisions of this section.

(c) The property that has been placed on hold is to remain in the same condition as when the hold was placed, and must stay in the place of business that originally took the item in on pawn, purchase, consignment, or trade.

Sec. 16-343. Inspection of premises, property and records.

The business premises of any person required to be licensed under this article, including any property on the premises and any and all ledgers, books, records or memoranda required to be kept either by the provisions of this article or state statute, or federal law, shall be open to inspection by any law enforcement officer, in the exercise of their lawful jurisdiction, upon request, at any time during the licensee's regular business hours.

Sec. 16-344. Employment of persons with suspended or denied license; list of persons convicted under this article.

(a) No licensee shall knowingly employ a person, in any capacity, in connection with the business for which the license is held, who has had a license suspended, revoked or denied under the provisions of this article. The police department shall maintain a list of such persons and will provide this information to licensees upon request. Licensees shall be deemed to have constructive notice of the contents of the list for purposes of prosecution of violations of this section.

(b) No licensee shall knowingly employ a person who has been convicted in any jurisdiction of any felony, or any misdemeanor involving fraud, theft, dishonesty, assaultive conduct or moral turpitude, if such employment is within five (5) years of the conviction. A licensee that has been notified by the police department that such a person is employed by the licensee shall terminate such employment immediately and failure to do so shall be grounds for license suspension under the provisions of this article.

Sec. 16-344.1. Conducting business while county license is suspended or revoked.

It shall be unlawful for a licensee to conduct any business, licensed pursuant to this article, at any time that a county or federal license to engage in the same or similar business is suspended or revoked.

Sec. 16-345. Revocation; grounds.

(a) Licenses issued pursuant to this article shall be subject to revocation for the grounds provided and in accordance with the procedures set forth in Article I of this chapter. The following shall also constitute grounds for the revocation of a license or permit issued pursuant to this article:

- (1) One (1) conviction of any of the following sections of this Article: 16-340 (providing false information), 16-340.1 (accepting item with altered identification number), 16-342 (property connected with a crime),

or 16-344 (employment of person with a conviction as described in 16-344 (b).)

- (2) Two (2) or more convictions for violations of any state statute, relating to the manner in which businesses of the type the license is held for are to be operated, which violations occurred within any three-year period.
- (3) Convictions for three or more violations of subsection 16-338, above, occurring within any two-year period.

(b) For the purposes of this section, "licensee" shall include any and all controlling persons.

Sec. 16-346. Review and appeals.

Any person aggrieved by any decision with respect to either the denial of or a refusal to issue a license, or the revocation of a license which is subject to this article, shall be entitled to the review and appeal procedures provided in Article I of this chapter.

Sec. 16-346.1. Application after non-acceptance, denial, revocation or lapse of license.

(a) If an application is not accepted because it is incomplete, an applicant may resubmit the application upon completion.

(b) Except as provided in subsection (c) below, after an application has been denied or a license has been revoked, no application shall be accepted for a license from the same applicant for two (2) years after the date of the denial or revocation.

(c) After an application has been denied or a license has been revoked for the conviction of an offense described in Article 1 of this chapter making an applicant ineligible to reapply for a license for five (5) years from the date of conviction, no application shall be accepted as set forth in Article 1 of this chapter.

Sec. 16-347. Disposition of property; Hearing.

Property that has come into the possession and control of the police department, pursuant to the provisions of this article, is subject to disposition as provided in Article XIX of this chapter.

Sec. 16-348. Penalty.

(a) A violation of any of the provisions of this article, except Section 16-338, shall be punishable as Class one (1) misdemeanors are punishable under state law. When a violation does not consist of a discrete act or acts, but is, in fact, continuing in nature, each day such violation continues shall constitute a separate offense.

(b) In no case shall the revocation of a license constitute a defense against prosecution for any act or omission made unlawful by the provisions of this article.

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